

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3236-01
Bill No.: HB 1597
Subject: Disabilities; Health Care; Health Care Professionals; Medical Procedures and Personnel; Mental Health
Type: Original
Date: February 8, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services, Missouri Department of Conservation, Missouri Consolidated Health Care Plan, Department of Public Safety - Missouri Highway Patrol, Office of State Courts Administrator and Department of Insurance** assume the proposed legislation will not fiscally impact their organizations.

Officials from the **Department of Health and Senior Services (DOH)** stated this legislation would not be expected to significantly impact the operations of the DOH. If the proposal were to substantially impact the DOH programs, then the DOH would request funding through the legislative process.

Officials from the **Department of Mental Health (DMH)** stated the DMH and its providers already have policies in place consistent with those delineated in section 459.160. Nothing else in the bill places a fiscal burden on the DMH.

Officials from the **Barton County Memorial Hospital, Cass Medical Center, Cooper County Memorial Hospital, Excelsior Springs Medical Center, Lincoln County Memorial Hospital, Pemiscot Memorial Hospital, Phelps County Regional Medical Center, Ray County Memorial Hospital, Samaritan Memorial Hospital, and Ste. Genevieve County Memorial Hospital** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposed legislation may have a minor negative fiscal impact on small business physicians who provide mental health services and receive directives from patients. The legislation may also have a small positive impact to small business attorneys who might be asked to draft the directives. The net effect is unknown.

DESCRIPTION

This bill establishes procedures pertaining to advanced directives for mental health care treatment.

In its main provisions, the bill: (1) Authorizes any competent adult person to make an advanced mental health care directive. The directive will remain in effect for three years or until revoked; (2) Requires that the authority of an attorney-in-fact and any alternative attorney-in-fact remain effective for the duration of the directive or when the attorney-in-fact withdraws; (3) Requires that the directive continues if the principal (patient) becomes incapable but would be void if the principal becomes capable again after the three-year term of the directive; (4) Requires all health care and mental health care organizations to maintain written policies and procedures pertaining to the receipt of mental health care treatment by any competent adult. The policies and procedures include information pertaining to the rights of mental health patients, the directive, and ensuring organizational compliance with Missouri law pertaining to mental health treatment; (5) Requires organizations to provide patients with a copy of the directive; (6) Requires that the provision pertaining to the disclosure of the directive to the principal is in addition to and consistent with federal law. Health care and mental health care organizations are prohibited from acting inconsistently with the federal law or contrary to their philosophical beliefs; (7) Exempts health care and mental health care organizations from criminal prosecution or civil liability for failing to maintain and provide written policies and procedures for the directive; (8) Specifies that any competent adult can be designated as an attorney-in-fact or an alternative attorney-in-fact who is responsible for making decisions for mental health care treatment received by the principal; (9) Specifies the procedures for establishing and effecting the directive; (10) Prohibits an attorney-in-fact from making mental health care decisions unless the principal is incapable. The attorney-in-fact is not responsible for charges incurred for mental health care treatment received by the principal; (11) Requires the attorney-in-fact to act in accordance with the known desires of the principal and to act in the best interests of the principal if his or her desires are unknown; (12) Requires the attorney-in-fact to receive information pertaining to treatment received by the principal and grants access to the principal's medical records as specified in the bill; (13) Exempts an attorney-in-fact from criminal prosecution, civil liability, or professional disciplinary action for acting in good faith pertaining to the directive; (14) Prohibits executing or refraining from executing a directive as a condition for receiving insurance, mental or physical services, or as a condition for discharge from a health care facility; (15) Specifies the procedures requiring physicians to record the directive in the principal's medical records and to comply with the provisions of the directive. Physicians or providers can withdraw from providing treatment according to the procedures contained in the bill; (16) Specifies the conditions when a physician or provider may subject the principal to mental health care treatment contrary to the principal's desires contained in the directive; (17) Specifies the conditions for revoking a directive in whole or in part; (18) Exempts physicians or other providers who administer or who do not administer mental health

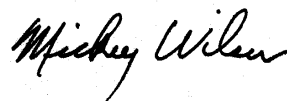
care treatment from criminal prosecution, civil liability, or professional disciplinary action if a directive is determined to be invalid; (19) Specifies the persons prohibited from acting as an attorney-in-fact and from serving as a witness to the signing of the directive; (20) Specifies the procedures pertaining to the withdrawal of the attorney-in-fact and the procedures for rescinding the withdrawal; and (21) Contains the format for creating a legally binding advanced mental health care directive.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Department of Insurance
Missouri Department of Conservation
Missouri Consolidated Health Care Plan
Department of Health and Senior Services
Office of State Courts Administrator
Department of Public Safety - Missouri Highway Patrol
Department of Mental Health

NOT RESPONDING: Barton County Memorial Hospital, Cass Medical Center, Cooper County Memorial Hospital, Excelsior Springs Medical Center, Lincoln County Memorial Hospital, Pemiscot Memorial Hospital, Phelps County Regional Medical Center, Ray County Memorial Hospital, Samaritan Memorial Hospital, and Ste. Genevieve County Memorial Hospital



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